

REMARKS

INTRODUCTION

In accordance with the foregoing, claims 1, 2, 4, 11, 12, 16, 17, 18, 20, 22, 24, 25, 26, 27, 32 and 33 have been amended.

Claims 23-25 and 35 have been allowed. Claims 10, 12, 28, 33 and 34 have also been indicated as including allowable subject matter, of which, claims 12, 28 and 33 have been amended into independent form. It is also noted that claims 11, 12, 16, 17, 18, 20, 22, 24 and 25 have been briefly amended to remove lettering references, without changing the scope of the claims, but to clarify that there is no inherent sequencing required in the claims.

Claims 1-35 are pending and under consideration.

REJECTION UNDER 35 USC 102

Claims 1-8, 11, 13-21, 26, 27 and 29-32 stand rejected under 35 USC § 102 as being anticipated by Mine, U.S. Patent No. 5,966,358. This rejection is respectfully traversed.

It is noted that independent claim 1 has been amended to clarify the term "occurring" as "detected," without changing the scope thereof. It is merely believed this clarification will make it more evident that the presently claimed invention is distinguishable from Mine. Similarly, claims 2, 4, 16 and 27 have been amended into independent form, including all the features from their respective base claims. These claims already included such an "occurring" or "detected" feature, with differing scope and breadth.

Similarly, this "occurring" or "detected" feature has been amended into independent claims 11, 26 and 32.

Thus, based on the above, it is respectfully submitted that Mine fails to disclose or suggest the detection of defects before recording user data. Totally contrary to this notion, Mine actually is specifically directed toward recording data to a user data area without initially detecting for defects, e.g., during a certification stage. Mine is primarily directed toward a method of recording data without having to first detect defects through a certification of the optical disc. Rather, Mine performs an on-the-fly defect detection *while* recording corresponding user data.

All remaining rejected independent claims include features, with differing scope and breadth, requiring some type of defect detection before recording corresponding user data, contrary to the disclosure of Mine.

Therefore, for at least the above, it is respectfully requested that this rejection be withdrawn and these claims be allowed. It is also respectfully submitted that all claims depending from these independent claims are also in proper condition for allowance.

REJECTION UNDER 35 USC 103

Claims 9 and 22 stand rejected under 35 USC § 103 as being obvious over Mine, in view of Hisatomi et al., U.S. Patent No. 6,546,192. This rejection is respectfully traversed.

It is respectfully submitted that the previous non-obviousness comments regarding Maeda, U.S. Patent No. 6,272,085, are also applicable here, as it would appear only the primary reference has been changed. In addition, it is again noted that Hisatomi et al. is not a proper §102 reference. The present application was filed April 21, 2000, while the earliest US priority date of Hisatomi et al. would appear to be July 31, 2000. Similarly, it is also noted that Hisatomi et al. claims priority from U.S. Patent No. 6,263,152, also to Hisatomi et al., which has only a potential § 102(e) priority date of September 3, 1999, while the present application claims priority from a Korean Application filed April 21, 1999. Thus, regardless of the potential priority date, Hisatomi et al. is not a proper §102 reference, and is not thereby available in a § 103 rejection.

Therefore, for at least all the above, it is respectfully requested that this rejection of claims 9 and 22 be withdrawn and claims 9 and 22 be allowed.

CONCLUSION

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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